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DEPARTMENT FOR WHA/CAN AND INL FOR VERVILLE AND CLINE

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SUBJECT: CANADA'S RESPONSE TO PROPOSAL FOR INTERNATIONAL  
CONVENTION ON DATA PROTECTION REFERENCE IN FRANCOPHONIE  
SUMMIT STATEMENT

REF: STATE 159673 (NOTAL)

¶1. (SBU) On September 27, Economic Minister-Counselor presented reftel demarche to Chantal de Varennes, Deputy Director, Francophonie Affairs Division, Foreign Affairs Canada (DFAIT), and Alain Tellier, Deputy Director, Criminal, Security and Treaty Law Division, DFAIT. Both were familiar with the last minute French efforts to insert language calling for an international convention guaranteeing the effectiveness of data protection law in the final declaration of the September 28-29 Francophonie Summit in Bucharest, Romania.

¶2. (SBU) Tellier provided Embassy with the text of the original French proposal:

"Nous appelons a l'intensification des travaux de nature legislative, reglementaire et organisationnelle necessaires a la mise en oeuvre effective des regles de la protection des personnes, de leurs liberte et droits fondamentaux dans l'utilisation des fichiers et traitements de donnees a caractere personnel, et, conscients de developpement de la circulation de donnees personnelles a travers les frontieres, sommes resolu a examiner en profondeur l'elaboration d'une convention internationale garantissant, dans ces circonstances, l'effectivite de cette protection."

¶3. (SBU) Our interlocutors agreed with the U.S. demarche that the data protection issue is not appropriate to appear in the final statement of the Francophonie Summit, Declaration of Bucharest, and had wanted to have the paragraph removed. However, the GOC eventually concluded for political reasons that the matter could not be dropped entirely. Subsequently, experts and Francophonie Ministers on September 26 agreed to a reformulation of the paragraph, which Canada believes weakens its intent.

¶4. (SBU) The revised language is as follows:

"Nous appelons a l'intensification des travaux necessaires a l'adoption des legislations assurant la protection des personnes, de leurs libertes et de leurs droits fondamentaux dans l'utilisation des fichiers et traitements de donnees a caractere personnel et, conscients de l'accroissement de la circulation des donnees personnelles au-dela des frontieres, marquons notre interet pour examiner l'opportunit   d'elaborer un instrument international garantissant, dans ces circonstances, le droits des personnes a la protection des donnees a caractere personnel, tout en tenant compte de nos

objectifs legitimes en matiere de lutte contre le crime, la corruption et le terrorisme."

15. (SBU) The new language will be given to the Chiefs of State and Heads of Government attending the Summit in Bucharest tomorrow. The Canadians believe that it will be approved unchanged, and promised to contact the Embassy if there are any changes. Note: The Canadian delegation is headed by Prime Minister Stephen Harper and includes Minister for International Development and for la Francophonie and Official Languages Josee Verner, Quebec Premier Jean Charest and New Brunswick Premier Bernard Lord (who was defeated for re-election last week, but his successor Shawn Graham asked him to represent the province). End note.

16. (SBU) Tellier suggested that the revised language calling for an international "instrument" rather than a "convention" provides a great deal of flexibility. An instrument, he provides a great deal of flexibility. An instrument, he explained, could be model legislation, a memorandum of understanding, or other type of less than binding undertaking. Moreover, Tellier pointed out that the final sentence's reference to "taking account of our legitimate objectives in the war against crime, corruption and terrorism" was a great improvement. He said that the International Law Commission (ILC) in New York may be contemplating work in the area of data protection. Canada would support such efforts, which Tellier pointed out, could take many years and the final result could take many different forms.

17. (U) Speaking more generally, the Canadians noted that the inclusion of language on data protection indicates that the Francophonie Summit, which meets every two years, is

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expanding its scope from the promotion of the French language and culture to other issues, including politics, economics and human rights. The next Francophonie summit will take place in Quebec City in 2008, as part of the celebration of the 400th anniversary of the French presence in Canada.

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